BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

Docket No. 175,062

RUSSELL BUTCHER Claimant VS.

THE BOEING COMPANY-WICHITA

Respondent

AND

AETNA CASUALTY & SURETY

Insurance Carrier

AND

KANSAS WORKERS COMPENSATION FUND

ORDER

Claimant appeals from an Award entered on October 12, 1994.

APPEARANCES

Claimant appeared by his attorney, James B. Zongker of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney, Frederick L. Haag of Wichita, Kansas. The Kansas Workers Compensation Fund appeared by its attorney Cortland Q. Clotfelter of Wichita, Kansas.

RECORD & STIPULATIONS

The Appeals Board has reviewed and considered the record listed in the Award. The Appeals Board has also adopted the stipulations listed in the Award.

ISSUES

The issues to be considered are whether claimant suffered a new or additional injury after suffering his claim in Docket Number 163,303 and, if so, the nature and extent of claimant's disability.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that the Award of Administrative Law Judge Shannon S. Krysl denying benefits in this case should be affirmed.

Claimant suffered a cervical injury in February of 1992 while helping a co-worker lift a cabinet. He subsequently underwent surgery which included a fusion. He returned to

work in September of 1992 and settled his initial claim in January of 1993 for an award based upon a fifteen percent (15%) permanent partial impairment. The settlement was entered in a case assigned Docket Number 163,303.

When claimant's symptoms worsened, he filed this claim, assigned Docket Number 175,062, alleging additional injury after he had returned to work. He also filed an Application for Review and Modification of the original claim, Docket Number 163,303. For the reasons expressed in the Award entered by the Administrative Law Judge, the Appeals Board finds claimant did not suffer additional injury after he returned to work. The findings and conclusions by the Administrative Law Judge expressed in her Award are hereby adopted and incorporated as findings and conclusions by the Appeals Board.

The Order of the Administrative Law Judge denying benefits in this Docket Number 175,062 is, therefore, affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Shannon S. Krysl dated October 12, 1994, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.		
Dated this	_ day of January 1996.	
	BOARD MEMBER	
	BOARD MEMBER	
	BOARD MEMBER	
	DUARD WEWDER	

c: James B. Zongker, Wichita, Kansas Frederick L. Haag, Wichita, Kansas Cortland Q. Clotfelter, Wichita, Kansas Shannon S. Krysl, Administrative Law Judge Philip S. Harness, Director